97TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 97-496

DEBT COLLECTION ACT OF 1982

APRIL 29, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 4613]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4613) to increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of debts owed the United States, having considered the same, report favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts a new text which appears in italic type in the reported bill.

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I. SUMMARY

Screening Potential Debtors (Sec. 2(a))

Under present law, a Federal agency may not find out from the Internal Revenue Service whether a taxpayer has any outstanding tax liability for use in determining whether to grant the taxpayer a Federal loan or other assistance.

Under the bill, the IRS will be permitted to disclose to the head of a Federal agency that administers an "included Federal loan program" whether or not a loan applicant has a tax delinquent account. This disclosure will be permitted only for the purpose of, and to the extent necessary in, determining the credit worthiness of a Federal loan applicant.

An "included Federal loan program" is a program (1) under which the U.S. or a Federal agency makes, guarantees, or insures loans, and (2) with respect to which the Office of Management and Budget has determined that the disclosure of whether any applicants have tax delinquent accounts will substantially prevent or reduce future program delinquencies. The OMB determination must be published in the *Federal Register*.

Use of Taxpayer Identifying Numbers (Sec. 2(b))

Under present law, taxpayers are required to furnish their identifying numbers on returns filed with the IRS. For purposes of the tax law, an individual taxpayer's identifying number generally is his social security number. However, applicants generally are not required to furnish their taxpayer identification numbers or social security numbers when applying for Federal loans.

Under the bill, each Federal agency that administers an included Federal loan program will have to require a person who applies for a loan under the program to furnish his taxpayer identifying number.

Disclosure of Mailing Addresses to Third Parties for Purposes of Collecting Federal Claims (Sec. 3)

Present law permits the IRS to disclose taxpayers' mailing addresses to officers and employees of other Federal agencies for their use in collecting Federal debts. In the case of the Department of Education, mailing addresses also may be disclosed to agents of the Department of Education.

In general, Federal agencies that receive tax returns and return information must comply with strict safeguard requirements. These safeguards, however, do not apply to taxpayers' mailing addresses that are received by Federal agencies for debt collection purposes.

The bill will permit the IRS to disclose taxpayer mailing addresses to officers, employees, or agents of other Federal agencies for their use in locating taxpayers in order to collect or compromise Federal claims. In addition, the bill will subject Federal agencies (and their agents)

which disclose mailing addresses to their agents, to the safeguard requirements generally applicable to agencies that receive tax returns and return information.

Effective Dates

The provisions relating to the screening of potential debtors and furnishing of taxpayer identifying numbers will be effective in the case of loan applications made after September 30, 1982.

The provision dealing with disclosures to agents will take effect upon enactment.

II. EXPLANATION OF THE BILL

A. Screening Potential Debtors

(Sec. 2(a) of the Bill and New Sec. 6103(l)(3) of the Code)

Present Law

Section 6103 of the Internal Revenue Code governs the disclosure of returns and return information. In general, returns and return information are confidential and may be disclosed only as specifically provided in the Code.[1]

Since a taxpayer's tax liability is considered, under present law, to be return information, the Internal Revenue Service generally may not disclose to another Federal agency whether a person has a tax liability, or the amount thereof.

Most Federal agencies that are authorized to receive tax returns and return information must, as a condition to receiving the returns and return information, comply with strict safeguard requirements.[2] In addition, the law provides penalties for the unauthorized disclosure of

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[1] The term "return" is defined as any tax or information return, declaration of estimated tax, or claim for refund which is required (or permitted) to be filed on behalf of, or with respect to, any person. A return also includes any amendment, supplemental schedule, or attachment filed with the tax return, information return, etc.

"Return information" includes the following data pertaining to a taxpayer: his identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, and tax payments. Also included in the definition of return information is any particular of any data, received by, recorded by, prepared by, furnished to, or collected by the IRS with respect to a return filed by the taxpayer or with respect to the determination of the existence, or possible existence, of liability for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense provided for under the Code. A summary of data contained in a return and information concerning whether a taxpayer's return was, is being, or will be examined or subject to other investigation or processing also is return information.

[2] In general, these requirements (which are set forth in Code sec. 6103(p)(4)) are that the agency must:

(a) Establish and maintain a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

(b) Establish and maintain a secure area or place in which tax returns or return information shall be stored;

(c) Restrict access to the returns or return information only to those persons whose duties or responsibilities require access and to whom disclosure is authorized;

(d) Provide such other safeguards which the IRS determines to be necessary or appropriate to protect the confidentiality of the returns or return information;

(e) Furnish a report to the IRS at such time and containing such information as required by the IRS describing the procedures established and utilized by

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tax returns or return information. The unauthorized disclosure of tax returns or return information is a felony that is punishable upon conviction by a fine of not more than $5,000 or imprisonment of not more than 5 years, or both (sec. 7213). Furthermore, a taxpayer may bring a civil action for damages against a person who knowingly or negligently discloses returns or return information in violation of the disclosure provisions (sec. 7217).

Reasons for Change

The committee is concerned with the magnitude of debts owed to the Federal Government. The Administration has urged that Federal agencies and their agents should have access to the most current address information available to the government and that, for this purpose, addresses on tax returns should be made available. The Administration also has expressed the belief that it would be proper for Federal lending agencies to be aware of whether a loan applicant has any outstanding tax liability before it grants credit to that applicant in order that Federal agencies may exercise sounder judgment in determining the potential ability of the loan applicant to repay the debt and to provide an incentive for Federal loan applicants to clear any tax debts prior to seeking any Federal loans.

Accordingly, the committee has agreed to make the changes necessary to the present law disclosure provisions to assist Federal agencies in their efforts to improve their debt collection procedures.

Explanation of Provision

The bill provides that, upon written request, the IRS may disclose to the head of a Federal agency that administers an "included Federal loan program" the fact of whether or not a loan applicant has a tax delinquent account.[3] The tax delinquent account was chosen because once a taxpayer has a tax delinquent account, it is clear that there is a fixed and certain tax liability. This information could be disclosed only for

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the recipient of the returns or return information for ensuring their confidentiality; and

(f) Upon completion of use of such returns or return information either—

(1) Return to the IRS the returns or return information (along with any copies made therefrom);

(2) Otherwise make the returns or return information undisclosable; or

(3) To the extent not so returned or made undisclosable, ensure that the safeguard provisions continue to be met, except to the extent that the returns or return information are disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof.

[3] A taxpayer generally is notified of a tax deficiency, after the completion of the audit process, through a Notice of Deficiency. Within 90 days from the date the Notice of Deficiency is mailed, the taxpayer may petition the Tax Court for a redetermination of the deficiency. (The taxpayer also may contest tax liability in a Federal district court or the Court of Claims by paying the tax and filing a suit for refund.) A tax assessment generally may not be made until the 90-day period for petitioning the Tax Court expires or until a decision of the Tax Court becomes final. A tax delinquent account for an individual generally arises after a taxpayer has received four notices that tax is due. In the case of an individual taxpayer, the first notice is sent about the time the tax is assessed; the second notice is sent five weeks after the first; the third notice is sent three weeks after the second; the final notice is sent four weeks after the third notice; and the tax delinquent account is established four weeks after the final notice is sent. A slightly different schedule is followed in the case of business taxpayers.

the purpose of, and to the extent necessary in, determining the credit worthiness of a loan applicant.

An "included Federal loan program" is a program (1) under which the U.S. or a Federal agency makes, guarantees, or insures loans, and (2) with respect to which there has been a determination by the Office of Management and Budget that the disclosure of whether any applicants have tax delinquent accounts will substantially prevent or reduce future program delinquencies. The OMB determination must be published in the *Federal Register*.[4]

This requirement is intended to impose a duty upon the agency, that desires the information from the IRS, and the OMB to evaluate the probable utility of the information, given the nature of the program in question and its beneficiaries, in comparison to the administrative costs and burdens associated with providing the information. Furthermore, the OMB would have the flexibility to add to, or delete from, the list of included Federal loan programs.

Agencies that receive this information (i.e., whether or not a taxpayer has a tax delinquent account) will be required to protect it under the general safeguard requirements of present law that are noted above. Furthermore, the unauthorized disclosure of this information may subject the wrongdoer to civil and criminal penalties.

Effective Date

This provision applies to loan applications made after September 30, 1982.

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[4] It is not intended that the publication requirement include every variation or type of loan under an "umbrella" program, but, rather, the major categories thereunder. For example, loans at different interest rates under the same statutory authority would not constitute different programs for purposes of this requirement.

B. Use of Taxpayer Identifying Numbers

(Sec. 2(b) of the Bill)

Present Law

A provision under the Privacy Act of 1974 [1] generally provides that it is unlawful for a Federal, State, or local governmental agency to deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his social security number. However, under the tax law, individuals and businesses are required to furnish identifying numbers on returns filed with the IRS (Code sec. 6109). In the case of an individual, the individual's social security number is the identifying number for this purpose.

Reasons for Change

The committee is concerned that the fact that Federal agencies generally cannot require loan applicants to furnish their identifying numbers may hamper the lending agency's ability to verify the identity of a loan applicant and to review the applicant's credit background. Furthermore, the absence of an identifying number may severely restrict an agency's ability to obtain useful information from the IRS. Without an identifying number, the agency would not be able to find out whether the loan applicant has a tax delinquent account and it would not be able to get the applicant's address from the IRS should it need to locate the appdicant in the future to collect any delinquent amounts. Thus, the committee believes that Federal loan applicants should be required to provide their identifying numbers (social security number in the case of individuals) on loan applications.

Explanation of Provision

Under the bill, each Federal agency that administers an included Federal loan program will have to require a person who applies for a loan under the program to furnish his taxpayer identifying number. The taxpayer identifying number for this purpose will be the number that a person is required to furnish on a return filed with the IRS (Code sec. 6109).

Effective Date

The provision applies to loan applications made after September 30, 1982.

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[1] Section 7 of P.L. 93–579.

C. Disclosure of Mailing Addresses to Third Parties for Purposes of Collecting Federal Claims

(Sec. 3 of the Bill and sec. 6103(m)(2) of the Code)

Present Law

Present law permits the disclosure of return information by the Internal Revenue Service to other governmental agencies, for the purpose of assisting them with debt collection, in several circumstances. Upon written request, the IRS may disclose mailing addresses of taxpayers to other Federal agencies for their use in the collection or compromise of Federal claims against taxpayers under the Federal Claims Collection Acto f 1966 (Code sec. 6103(m)(2)).[2] These mailing addresses may be used only by officers and employees of an agency who are personally and directly engaged in the preparation of any administrative or judicial proceeding (or investigation) pertaining to the collection or compromise of a Federal claim. Moreover, the IRS may disclose to the Secretary of Education the mailing address of any taxpayer who has defaulted on a student loan, for use by officers, employees, or agents (that is, private debt collectors) of the Department of Education for purposes of locating the taxpayer to collect the loan (Code sec. 6103(m)(4)). These addresses may be disclosed further to lenders, to State or local nonprofit guarantee agencies, and to institutions of higher education.

Present law does not impose safeguard requirements with respect to mailing addresses received by Federal agencies, for debt collection purposes.

Reasons for Change

The committee believes that Federal agencies could collect debts owed to them in a more efficient and effective manner if they were able to utilize agents (*i.e.*, collection agencies and consumer reporting agencies) and provide them with current address information. Thus, the committee has decided to allow Federal agencies, in addition to the Department of Education, to furnish their agents with mailing addresses they receive from the IRS, for purposes of Federal debt collection.

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[1] The Federal Claims Collection Act of 1966 generally provides that a Federal agency must attempt the collection of all claims of the United States for money or property arising out of the activities of, or referred to, the agency (31 U.S.C. secs. 951–953).

That Act provides for the compromise, or termination or suspension of certain claims if it appears that no person liable on the claim has the present or prospective financial ability to pay any significant sum on the claim or that the cost of collecting the claim is likely to exceed the amount of the recovery. Compromise or termination of collection generally is permitted if a claim has not been referred to another agency for collection and if the claim does not exceed $20,000

Explanation of Provision

The bill provides that, upon written request by the head of any Federal agency, the IRS may disclose the mailing address of a taxpayer for use by the agency's officers, employees, or agents for the purpose of locating the taxpayer in order to collect or compromise a Federal claim against the taxpayer in accordance with section 3 of the Federal Claims Collection Act of 1966. In the case of an agent that is a consumer reporting agency, the committee intends that such disclosure be made only for the purpose of allowing the agent to prepare a commercial credit report on a taxpayer for use by the Federal agency in collecting or compromising the debt. Any unauthorized use by any agent may subject the agent to present law penalties for unauthorized disclosures.

The present law safeguards that generally apply to Federal agencies that receive tax information would be extended to all Federal agencies that receive mailing addresses and disclose them to any agents. These requirements are that the agency (sec. 6103(c)(4)):

(a) Establish and maintain a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

(b) Establish and maintain a secure area or place in which tax returns or return information shall be stored;

(c) Restrict access to the returns or return information only to those persons whose duties or responsibilities require access and to whom disclosure is authorized;

(d) Provide such other safeguards which the IRS determines to be necessary or appropriate to protect the confidentiality of the returns or return information;

(e) Furnish a report to the IRS at such time and containing such information as required by the IRS describing the procedures established and utilized by the recipient of the returns or return information for ensuring their confidentiality; and

(f) Upon completion of use of such returns or return information either—

> (1) Return to the IRS the returns or return information (along with any copies made therefrom);
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> (2) Otherwise make the returns or return information undisclosable; or
>
> (3) To the extent not so returned or made undisclosable, ensure that the safeguard provisions continue to be met, except to the extent that the returns or return information are disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof.

The safeguards also will apply to agents of Federal agencies. However, the Federal agencies will be required to administer the safeguards as to their agents and to file the required reports.

Furthermore, the wrongful disclosure of mailing addresses could subject the wrongdoer to the criminal and civil penalties of present law.

Effective Date

This provision will apply upon enactment.

III. EFFECT OF THE BILL ON THE BUDGET AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

Budget Effects

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made about the effect on the budget of this bill, H.R. 4613, as reported.

The committee estimates that the provisions contained in the bill will cause budget receipts to increase. Increases in Federal tax receipts resulting from enactment of the bill are expected to be minimal for fiscal years 1982–87.

It is estimated that the tax-related provisions of this bill and several of the nontax related provisions of the companion bills (H.R. 2811, H.R. 3741 and H.R. 4614) together would increase net budget receipts by approximately $100 million in fiscal year 1982, $400 million in fiscal years 1983 and 1984, and $100 million in fiscal years 1985–87.

Vote of the Committee

In compliance with clause 3(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made about the vote of the committee on the motion to report the bill. The bill, H.R. 4613, as amended, was ordered favorably reported by voice vote.

IV. OTHER MATTERS TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clauses 2(l)(3) and 2(l)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made with respect to the committee action on H.R. 4613 as reported.

Oversight Findings

With respect to subdivision (A) of clause 2(l)(3) (relating to oversight findings), the committee advises that it was as a result of the committee's oversight activities with respect to protection of confidential tax return information and the need to facilitate the Federal Government's loan approval and debt collection efforts that the committee concluded that it is appropriate to enact the provisions contained in the bill.

The provisions of H.R. 4613 as introduced were the subject of public hearings by the committee on October 15, 1981, and covered disclosure of tax return information for purposes of screening potential debtors of the United States or Federal agencies and for purposes of collecting Federal debts.

New Budget Authority and Tax Expenditures

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Director of the Congressional Budget Office, the com-

mittee states that the changes made to existing law by this bill involve no new budget authority or new tax expenditures.

Consultation with Congressional Budget Officials on Budget Estimates

With respect to subdivision (C) of clause 2(l)(3), the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates (as indicated in part III of this report and has submitted the following statement:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 29, 1982.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 4613, the Debt Collection Act of 1982, as ordered reported by the House Committee on Ways and Means, April 28, 1982.

The bill will require applicants for assistance under federal loan programs to furnish their taxpayer identifying numbers. The bill will also permit the Internal Revenue Service (IRS) to disclose to the head of a federal agency that administers an included federal loan program whether an applicant for a federal loan has a tax delinquent account. The disclosure of taxpayer addresses to officers, employees, or agents of other federal agencies by the IRS for purposes of collecting federal claims against the taxpayer will also be permitted under the provisions of this bill. Safeguards to protect the confidentiality of mailing addresses disclosed by the IRS are also included.

Over time, the provisions of this bill would be expected to reduce delinquent and bad debt by providing federal lending officers with better information upon which to base loan decisions and with which to locate debtors. Thus, long-term savings to the government are likely to result from enactment of this bill; however, the amount of such savings cannot be estimated because of a lack of relevant historical data and uncertainty as to how the new procedures would be implemented.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(for Alice M. Rivlin, Director).

Oversight by Committee on Government Operations

With respect to subdivision (D) of clause 2(l)(3), the committee advises that no oversight findings or recommendations have been submitted to the committee by the Committee on Government Operations regarding the subject matter of this bill.

Inflationary Impact

In compliance with clause 2(l)(4), the committee states that the enactment of this bill is not expected to have a inflationary impact on prices and costs in the operation of the national economy.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter B—Miscellaneous Provisions

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SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) GENERAL RULE.—Returns and return information shall be confidential, and except as authorized by this title—

(1) no officer or employee of the United States,

(2) no officer or employee of any State or of any local child support enforcement agency who has or had access to returns or return information under this section, and

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), [subsection (m)(4)(B)] *paragraph (2) or (4)(B) of subsection (m)*, or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer of employee" includes a former officer or employee.

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(l) DISCLOSURE OF RETURNS AND INFORMATION FOR PURPOSES OTHER THAN TAX ADMINISTRATION.—

(1) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION TO SOCIAL SECURITY ADMINISTRATION AND RAILROAD RETIREMENT

BOARD.—The Secretary may, upon written request, disclose returns and return information with respect to—

(A) taxes imposed by chapters 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

(B) a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Soical Security Act, limited, however to return information described in section 6057(d); and

(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

(2) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO THE DEPARTMENT OF LABOR AND PENSION BENEFIT GUARANTY CORPORATION.—The Secretary may, upon written request, furnish returns and return information to the proper officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of titles I and IV of the Employee Retirement Income Security Act of 1974.

(3) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO PRIVACY PROTECTION STUDY COMMISSION.—The Secretary may, upon written request, disclose returns and return information to the Privacy Protection Study Commission, or to such members, officers, or employees of such commission as may be named in such written request, to the extent provided under section 5 of the Privacy Act of 1974.]

(3) DISCLOSURE THAT APPLICANT FOR FEDERAL LOAN HAS TAX DELINQUENT ACCOUNT.—

(A) IN GENERAL.—Upon a written request, the Secretary may disclose to the head of the Federal agency administering any included Federal loan program whether or not an applicant for a loan under such program has a tax delinquent account.

(B) RESTRICTION ON DISCLOSURE.—Any disclosure under subparagraph (A) shall be made only for the purpose of, and to the extent necessary in, determining the credit worthiness of the applicant for the loan in question.

(C) INCLUDED FEDERAL LOAN PROGRAM DEFINED.—For purposes of this paragraph, the term "included Federal loan program" means any program—

(i) under which the United States or a Federal agency makes, guarantees, or insures loans, and

(ii) with respect to which there is in effect a determination by the Director of the Office of Management and Budget (which has been published in the Federal Register) that the application of this paragraph to such program will substantially prevent or reduce future delinquencies under such program.

(4) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN PERSONNEL OR CLAIMANT REPRESENTATIVE MATTERS.—The Secretary may disclose returns and return information—

(A) upon written request—

(i) to an employee or former employee of the Department of the Treasury, or to the duly authorized legal representative of such employee or former employee, who is or may be a party to any administrative action or proceeding affecting the personnel rights of such employee or former employee; or

(ii) to any person, or to the duly authorized legal representative of such person, whose rights are or may be affected by an administrative action or proceeding under section 3 of the Act of July 7, 1884 (23 Stat. 258; 31 U.S.C. 1026),

solely for use in the action or proceeding, or in preparation for the action or proceeding, but only to the extent that the Secretary determines that such returns or return information is or may be relevant and material to the action or proceeding; or

(B) to officers and employees of the Department of the Treasury for use in any action or proceeding described in subparagraph (A), or in preparation for such action or proceeding, to the extent necessary to advance or protect the interests of the United States.

(5) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.—Upon written request by the Secretary of Health, Education, and Welfare, the Secretary may disclose information returns filed pursuant to Part III of subchapter A of chapter 61 of this subtitle for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective return processing program.

(6) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

(i) available return information from the master files of the Internal Revenue Service relating to the address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

(7) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF AGRICULTURE AND TO STATE FOOD STAMP AGENCIES.—

(A) IN GENERAL.—The Commissioner of Social Security may disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection—

(i) upon request, to officers and employees of the Department of Agriculture, and

(ii) upon written request, to officers and employees of a State food stamp agency.

(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, determining an individual's eligibility for benefits, or the amounts of benefits, under the food stamp program established under the Food Stamp Act of 1977.

(C) STATE FOOD STAMP AGENCY.—For purposes of this paragraph, the term "State food stamp agency" means any agency described in section 3(n)(1) of the Food Stamp Act of 1977 which administers the food stamp program established under such Act.

(7) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO STATE AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) IN GENERAL.—Upon written request, the Commissioner of Social Security shall disclose directly to officers and employees of a State or local child support enforcement agency return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection.

(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations. For purposes of the preceding sentence, the term "child support obligations" only includes obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D of title IV of such Act.

(C) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY.—For purposes of this paragraph, the term "State or local child support enforcement agency" means any agency of a State or political subdivision thereof operating pursuant to a plan described in subparagraph (B).

(m) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—

(1) TAX REFUNDS. The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

[(2) FEDERAL CLAIMS. Upon written request, the Secretary may disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.]

(2) FEDERAL CLAIMS.—Upon written request by the head of any Federal agency, the Secretary may disclose the mailing address of a taxpayer for use only by officers, employees, or agents of such agency for the purpose of locating such taxpayer in order to collect or compromise a Federal claim against such taxpayer in accordance with section 3 of the Federal Claims Collection Act of 1966.

(3) NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH. Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

(4) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS.—

(A) IN GENERAL.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan—

(i) made under part B or E of title IV of the Higher Education Act of 1965, or

(ii) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such loan.

(B) DISCLOSURE TO EDUCATIONAL INSTITUTIONS, ETC.—Any mailing address disclosed under subparagraph (A)(i) may be disclosed by the Secretary of Education to—

(i) any lender, or any State or nonprofit guarantee agency, which is participating under part B of title IV of the Higher Education Act of 1965, or

(ii) any educational institution with which the Secretary of Education has an agreement under part E of title IV of such Act.

for use only by officers, employees or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans.

(n) CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration.

(o) DISCLOSURE OF RETURNS AND RETURN INFORMATION WITH RESPECT TO CERTAIN TAXES.—

(1) TAXES IMPOSED BY SUBTITLE E.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.

(2) TAXES IMPOSED BY CHAPTER 35.—Returns and return information with respect to taxes imposed by chapter 35 (relating to taxes on wagering) shall, notwithstanding any other provision of this section, be open to inspection by or disclosure only to such person or persons and for such purpose or purposes as are prescribed by section 4424.

(p) PROCEDURE AND RECORDKEEPING.—

(1) MANNER, TIME, AND PLACE OF INSPECTIONS.—Requests for the inspection or disclosure of a return or return information and such inspection or disclosure shall be made in such manner and at such time and place as shall be prescribed by the Secretary.

(2) PROCEDURE.—

(A) REPRODUCTION OF RETURNS.—A reproduction or certified reproduction of a return shall, upon written request, be furnished to any person to whom disclosure or inspection of such return is authorized under this section. A reasonable fee may be prescribed for furnishing such reproduction or certified reproduction.

(B) DISCLOSURE OF RETURN INFORMATION.—Return information disclosed to any person under the provisions of this title may be provided in the form of written documents, reproductions of such documents, films or photoimpressions, or electronically produced tapes, disks, or records, or by any other mode or means which the Secretary determines necessary or appropriate. A reasonable fee may be prescribed for furnishing such return information.

(C) USE OF REPRODUCTIONS.—Any reproduction of any return, document, or other matter made in accordance with this paragraph shall have the same legal status as the original, and any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding as if it were the original, whether or not the original is in existence.

(3) RECORDS OF INSPECTION AND DISCLOSURE.—

(A) SYSTEM OF RECORDKEEPING.—Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section. Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections (c), (e), (h)(1), (3)(A), or (4), (i)(4) or (6)(A)(ii), (k)(1), (2), or (6), (l)(1), (4)(B), (5), or (7) [or 8], (m), or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.

(B) REPORT BY THE SECRETARY.—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation a report with respect to, or summary of, the records or accountings described in subparagraph (A) in such form and containing such information as such joint committee or the Chief of Staff of such joint committee may designate. Such report or summary shall not, however, include a record or accounting of any request by the President under subsection (g) for, or the disclosure in response to such request of, any return or return information with respect to any individual who, at the time of such request, was an officer or employee of the executive branch of the Federal Government. Such report or summary, or any part thereof, may be disclosed by such joint committee to such persons and for such purposes as the joint committee may, by record vote of a majority of the members of the joint committee, determine.

(C) PUBLIC REPORT ON DISCLOSURES.—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report with respect to the records or accountings described in subparagraph (A) which—

(i) provides with respect to each Federal agency, each agency, body, or commission described in subsection (d) or [(l)(3) or (6)] *(l)(6)*, and the General Accounting Office the number of—

(I) requests for disclosure of returns and return information,

(II) instances in which returns and return information were disclosed pursuant to such requests,

(III) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests, and

(ii) describes the general purposes for which such requests were made.

(4) SAFEGUARDS.—Any Federal agency described in subsection (h)(2), (i)(1), (2) or (5), (j)(1) or (2), [(l)(1), (2),] *(l)(1), (2), (3),* or (5), or (o)(1), the General Accounting Office, or any agency, body, or commission described in subsection (d) or [(l)(3), (6),] *(l)*(6), or (7) shall, as a condition for receiving returns or return information—

(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission or the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and

(F) upon completion of use of such returns or return information—

(i) in the case of an agency, body, or commission described in subsection (d) or (l)(6) or (7), return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner; and

(ii) in the case of an agency described in subsections (h)(2), (i)(1), (2), or (5), (j)(1), or (2), [(l)(1), (2), or (5), or (o)(1), the commission described in subsection (l)(3),] *(l)(1), (2), (3), or (5), or (o)(1),* or the General Accounting Office, either—

(I) return to the Secretary such returns or return information (along with any copies made therefrom),

(II) otherwise make such returns or return information undisclosable, or

(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information,

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission or the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission or the General Accounting Office until he determines that such requirements have been or will be met. *In the case of any agency which receives any mailing address under subsection (m)(2) or (4) and which discloses any such mailing address to any agent, this paragraph shall apply to such agency and each such agent (except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency).*

(5) REPORT ON PROCEDURES AND SAFEGUARDS.—After the close of each calendar quarter, the Secretary shall furnish to each committee described in subsection (f)(1) a report which describes the procedures and safeguards established and utilized by such agencies, bodies, or commissions and the General Accounting Office for ensuring the confidentiality of returns and return information as required by this subsection. Such report shall also describe instances of deficiencies in, and failure to establish or utilize, such procedures.

(6) AUDIT OF PROCEDURES AND SAFEGUARDS.—

(A) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General may audit the procedures and safeguards established by such agencies, bodies, or commissions pursuant to this subsection to determine whether such safeguards and procedures meet the requirements of this subsection and ensure the confidentiality of returns and return information. The Comptroller General shall notify the Secretary before any such audit is conducted.

(B) RECORDS OF INSPECTION AND REPORTS BY COMPTROLLER GENERAL.—The Comptroller General shall—

(i) maintain a permanent system of standardized records and accountings of returns and return information inspected by officers and employees of the General Accounting Office under subsection (i)(6)(A)(ii) and shall, within 90 days after the close of each calendar year, furnish to the Secretary a report with respect to, or summary

of, such records or accountings in such form and containing such information as the Secretary may prescribe, and

(ii) furnish an annual report to each committee described in subsection (f) and to the Secretary setting forth his findings with respect to any audit conducted pursuant to subparagraph A.

The Secretary may disclose to the Joint Committee any report furnished to him under clause (i).

(7) ADMINISTRATIVE REVIEW.—The Secretary shall by regulations prescribe procedures which provide for administrative review of any determination under paragraph (4) that any agency, body, or commission described in susbection (d) has failed to meet the requirements of such paragraph.

(8) STATE LAW REQUIREMENTS.—

(A) SAFEGUARDS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed after December 31, 1978, to any officer or employee of any State which requires a taxpayer to attach to, or include in, any State tax return a copy of any portion of his Federal return, or information reflected on such Federal return, unless such State adopts provisions of law which protect the confidentiality of the copy of the Federal return (or portion thereof) attached to, or the Federal return information reflected on, such State tax return.

(B) DISCLOSURE OF RETURNS OR RETURN INFORMATION IN STATE RETURNS.—Nothing in subparagraph (A) shall be construed to prohibit the disclosure by an officer or an employee of any State of any copy of any portion of a Federal return or any information on a Federal return which is required to be attached or included in a State return to another officer or employee of such State (or political subdivision of such State) if such disclosure is specifically authorized by State law.

(q) REGULATIONS.—The Secretary is authorized to prescribe such other regulations as are necessary to carry out the provisions of this section.

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CHAPTER 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

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Subchapter A—Crimes

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PART I—GENERAL PROVISIONS

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SEC. 7213. UNAUTHORIZED DISCLOSURE OF INFORMATION.

(a) RETURNS AND RETURN INFORMATION.—

(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, willfully to disclose to any person, except as authorized in this title, any return or return

information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (l)(6), (7), or (8), or [(m)(4)] *(m)(2) or (4)* of section 6103. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(3) OTHER PERSONS.—It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in any maner unauthorized by this title thereafter willfully to print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(4) SOLICITATION.—It shall be unlawful for any person willfully to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(5) SHAREHOLDERS.—It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e)(1)(D)(iii) willfully to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not to exceed $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

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97TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 97-497

AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES INTERNATIONAL TRADE COMMISSION, THE UNITED STATES CUSTOMS SERVICE, AND THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

APRIL 29, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 6094]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 6094) to authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1983, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 3, line 13, strike out "$574,801,000" and insert "$568,801,000".

Page 3, strike out line 18 and all that follows thereafter down through line 2 on page 4 and insert the following:

> (c) No part of any sum that is appropriated under the authority of subsection (b) may be used to implement any procedure relating to the time of collection of estimated duties that shortens the maximum 10-day deferment procedure in effect on January 1, 1981.

PURPOSES AND SUMMARY

H.R. 6094, as ordered favorably reported by the Committee on Ways and Means, combines three separate agency authorizations

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under the jurisdiction of the Committee, and makes certain changes in the administrative authoriites of the three agencies.

For the U.S. International Trade Commission (ITC), the bill authorizes appropriations of $19,737,000 for fiscal year 1983 (the amount requested by the ITC), requires that the ITC be reimbursed by other agencies for studies requested of the ITC by such agencies, and provides the Chairman of the ITC authority to accept gifts, including reimbursement for travel.

The bill also authorizes $568,801,000 in appropriations for the U.S. Customs Service for fiscal year 1983. This amends the authorization level set forth in H.R. 6094 as introduced and increases by $38,277,000 the amount requested for Customs in President Reagan's budget. This authorization includes $31,464,000 to fund the transfer of functions of the Bureau of Alcohol, Tobacco and Firearms to the Customs Service. The Committee also adopted an amendment to remove the $25,000 overtime pay limit or "cap" for Customs inspectors in the bill as introduced. The bill further authorizes appropriations to reflect automatic salary supplementals and prohibits any acceleration in the current system of collecting customs duties on commercial transactions.

Finally, the bill authorizes $10,100,000 for the U.S. Trade Representaive (USTR) for fiscal year 1983, authorizes appropriations to reflect automatic salary supplementals, and provide certain standard administrative authorities to the agency.

Committee Action

The Subcommittee on Trade of the Committee on Ways and Means held hearings on February 25 and 26, 1982, on the authorization of appropriation for and oversight of the International Trade Commission, Customs Service, and U.S. Trade Representative. Testimony was received from representatives of each of the three agencies and from public witnesses.

H.R. 6094 was introduced by the Chairman of the Subcommittee on Trade, Mr. Gibbons, on April 6.

On April 20, the Subcommittee on Trade by voice vote ordered H.R. 6094 reported favorably to the full Committee with two amendments.

On April 28, the Committee on Ways and Means ordered H.R. 6094 favorably reported by voice vote with two amendments.

Section-by-Section Analysis and Justification

International Trade Commission

The Trade Act of 1974 (Public Law 93-618) provides that the estimated expenditures and proposed appropriations for the International Trade Commission shall be included in the budget submitted by the President to the Congress without revision and amended section 330 of the Tariff Act of 1930 to require that the annual authorization of appropriations for the Commission be established by law.

Because of the unique role of the Commission as a quasi-judicial and independent agency designed to provide trade expertise to both legislative and executive branches of Government, the Congress provided that the budget of the International Trade Commission would not be

subject to control by the Office of Management and Budget, but would instead be submitted directly to the Congress. The Committee believes that this budgetary independence has been useful in insuring the independence and objectivity of the Commission.

Authorization of appropriations

Section 1 of H.R. 6094 amends paragraph (2) of section 303(e) of the Tariff Act of 1930 to authorize an appropriation to the ITC for fiscal year 1983 not to exceed the amount requested by the ITC—that is, $19,737,000.

The ITC's budget request is $934,000 or 5 percent more than the request for fiscal year 1982 and $1,934,000 more than their actual operating level for 1982 under the continuing appropriation, assuming enactment of the pay increase supplemental appropriation. The ITC attributes 96 percent of the increase to built-in-cost increases in employee compensation, inflation, and GSA space rental increases. The budget request will support a staff of 438, the same personnel level as requested in fiscal year 1982. Under the continuing appropriation, the ITC staff has been frozen at 416, and because of the high volume of import relief cases this ceiling has had an adverse effect on the agency's operations.

After careful review, the Committee supports the Commission's budget request. As the Commission's budget submissions have noted:

> The Commission's public investigations have dealt with commodities which are major factors in the commerce of the United States, such as automobiles and steel. We are currently heavily involved in steel cases, and expect to be required throughout fiscal year 1982 and fiscal year 1983 to conduct similar high-impact investigations as well as other investigations which involve narrower segments of the economy. In order to fulfill this requirement the Commission must maintain a highly competent staff with the appropriate expertise and access to the detailed information necessary to conduct thorough professional investigations. The Commission believes that both its fiscal year 1982 and fiscal year 1983 budget requests ensure the resources necessary to carry out its statutory role while responding to the national need for fiscal restraint.
>
> The Trade Agreements Act of 1979 led to a substantial increase in the work of the Commission. Its provisions often result in the Commission making both preliminary and final injury determinations in countervailing duty and antidumping cases. The impact on the Commission was further increased by the requirement that, upon petition, the Commission make injury determinations concerning over 30 outstanding countervailing duty orders. The work on a major portion of these cases has not yet been completed, but is required by statute to be completed within three years from the time petitions are filed by the foreign countries. These cases are currently being worked on as other investigative requirements allow. The Commission expects the investigative impact of the Trade Agreements Act of 1979 to continue at a high level in fiscal year 1982 and fiscal year 1983.

The Committee believes that if the United States, its workers, its importers, and exporters are to reap the benefits of the new trade agreements, the ITC must be adequately funded with quality personnel. The Commission's budget request is clearly justified by the tasks facing it.

ITC studies for other agencies

Section 1 of the authorization bill also provides that:

> No part of any sum that is appropriated under the authority of this (act) may be used by the Commission for the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.

The language parallels language which was included for many years in the appropriations language for the Commission, but which was dropped from the fiscal year 1980 appropriations bill.

The Committee is concerned that if the ITC is either by statute or by agency request asked to perform studies for other agencies without reimbursement, that it will become a "back-door consultant" for other agencies seeking "free" services. The Commission in turn will use the request for such services as an excuse to come to the Committee for ever larger budgets. Therefore, the above language is included in the authorization bill to require reimbursement for studies which may be requested by other agencies. This language is not intended to extend to investigations requested by the President or the U.S. Trade Representative pursuant to existing statutes which call for such requests, including but not limited to the following:

1. Section 332 of the Tariff Act of 1930 (19 U.S.C. § 1332).
2. Section 201 of the Trade Act of 1974 (19 U.S.C. § 2251).
3. Section 406 of the Trade Act of 1974 (19 U.S.C. § 2430).
4. Section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. § 624).

These statutes all contemplate a normal process of ITC findings and recommendations upon Presidential request. The bill would only require reimbursement for special requests outside these statutory schemes.

Acceptance of gifts

Section 1 of the authorization bill would also authorize the ITC Chairman to accept gifts, including reimbursement for travel, for the purpose of aiding or facilitating the work of the agency. While this provision would authorize the ITC to accept reimbursement for expenses for, among other things, speaking engagements before private groups, the Committee notes that the exercise of this authority should be carefully controlled and in strict compliance with applicable ethics and conflict of interest laws and regulations.

THE U.S. CUSTOMS SERVICE

Authorization of appropriations

The Customs Procedural Reform and Simplification Act of 1978 (Public Law 95–410) provides for the annual authorization of appropriations for the Customs Service. Section 2 of H.R. 6094 as introduced was amended by the Committee to authorize $568,801,000 in

appropriations for the U.S. Customs Service in fiscal year 1983. This figure includes an amount not to exceed $31,464,000 to fund the transfer to the Customs Service of the alcohol and tobacco functions now performed by the Bureau of Alcohol, Tobacco, and Firearms (BATF). The authorization level approved by the Committee represents an increase of some $38,277,000 above the amount requested in President Reagan's budget. Exclusive of the BATF funding and $18 million earmarked for pay raises, the Administration budget request is a reduction of $13 million from the continuing resolution level of $493,000,000. In terms of "real" dollars, the budget reduction is substantially greater.

The Committee believes the increased authorization is necessary to maintain a level of funding which will enable Customs to operate in fiscal year 1983 at the current level of services without interrupting the proper flow of commerce. According to Customs, this increased level will also avoid a proposed 20 percent reduction in force among Customs inspectors, import specialists, and other personnel.

Several Members of the Committee expressed concern that these large reductions in personnel could result in fewer seizures of dangerous drugs; a sharp reduction in revenue collection; lengthy delays for passenger and cargo processing; and an inability to properly monitor and enforce import quotas and other import/exports controls.

The Committee believes that Customs already has been operating on a very tight budget and is probably one of the more efficient agencies in government. However, the continually growing workload of passenger and cargo processing coupled with the increased threat of narcotic smuggling have placed greater demands on the Customs' budget. The Committee notes that the Customs' budget has continued to decline in real terms in the past several years.

It is important to note that Customs is not only a border enforcement agency, but also a major revenue produced. In fiscal year 1981, Customs was responsible for the collection of a record $9.1 billion in revenue. This was a 12 percent increase over 1980 and represents a return of almost $18.50 for each dollar expended from their total budget.

Thus, the authorization level approved by the Committee is intended to not only restore the personnel cuts for fiscal year 1983 but is also designed to prevent major cutbacks in service to both the importing and travelling public while at the same time providing for effective law enforcement and drug interdiction capability.

The Committee adopted an amendment to reduce by $6 million the authorization level of $574,801,000 in section 2 of H.R. 6094 as introduced. The $6 million reduction conforms to the 4 percent cut in Customs non-enforcement functions (e.g., commercial affairs) mandated by the Second Continuing Resolution (Public Law 97–92) passed in December 1981.

Section 2 includes a permanent authorization beginning in fiscal year 1983 of adjustments in annual appropriations to reflect "such additional sums as may be provided by law to reflect pay rate changes made in accordance with the Federal Pay Comparability Act." This provision allows automatic adjustments in the authorization level which may be required by the annual October pay raise.

Collection of estimated duties

Section 2 also prohibits the use of any authorized funds "to implement any procedure relating to the time of collection of estimated duties that shortens the maximum 10-day deferment procedure in effect on January 1, 1981."

At the present time, there is no proposal to accelerate the collection of estimated duties. This idea has been proposed several times in recent years, however, and the Committee again included this language to indicate its continuing strong opposition to the idea. This language prevents Customs from requiring the deposit of estimated duties earlier than 10 working days after the date of entry of imported merchandise.

The Committee continues to believe that the efficiencies gained by the 10-day deferral system of payment of duties far outweigh any gains to the Treasury in speeding the collection of duties. Thus, the Committee repeats a ban on acceleration which it has included in its last two authorization bills for the Customs Service.

Overtime pay

The Committee adopted an amendment to remove the $25,000 Customs overtime pay limitation from H.R. 6094 as introduced.

This amendment modifies present law which places a $20,000 annual limit on the amount Customs inspectors can earn in overtime pay. This cap was imposed several years ago due to Committee concerns about excessive amounts of overtime being earned by certain Customs inspectors. Although much of this overtime is actually reimbursable by the users (e.g., airlines for after regular hour service), it is a cost on the economy and the consumer. It also created morale problems within the Service. As a result of statutory "caps" being placed in the Customs Service's appropriation bills, many of these excesses have been eliminated. Recently, Customs has given careful attention to the better management of overtime assignments.

Nevertheless, Customs officials testified that the $20,000 level has become unduly restrictive and is now causing unneecssary expenses in order to comply with the cap. Imposed over two years ago, the cap is even more binding today in view of several pay raises and hiring freezes. Customs officials have indicated that Customs spent $1 million last year in administrative costs associated with the cap.

Customs thus recommended to the Committee that the Commissioner of Customs be authorized to exercise administrative control of overtime in lieu of any dollar limit on overtime earnings. The Committee notes Customs management initiatives which have been instituted in FY 1981 to reduce Customs overtime requirements. In fact, Customs has estimated that between fiscal years 1981 and 1983, the total overtime bill will remain constant or may slightly decline.

The Committee will, however, be monitoring this situation very closely to ensure that Customs management continues to try to keep inspectional overtime to a minimum.

Other issues

Reorganization.—In testimony before the Subcommittee on Trade, the Commissioner of Customs indicated that the Service was committed to seeking reductions in the overall personnel levels assigned to

regional and district offices. The purpose of this effort is to consolidate administrative functions, improve operational efficiency and coordination, and to make more personnel available for assignment to field offices where entry processing is performed and services are provided to the public.

The Committee agrees that these efforts should be pursued. The need for consolidation is supported by numerous studies over the past several years evaluating the structure of the Service and its operational efficiency. Two studies done in 1978 by the General Accounting Office, at the request of the Chairman of the Committee on Ways and Means, were among the reports that reaffirmed the need to decentralize management functions and to concentrate personnel and other resources in the field locations.

The Committee supports a greater emphasis on line operations and believes that streamlining the organizational structure will not reduce the effectiveness of the Service at any location, since regions and districts are essentially intermediate tiers between Customs headquarters in Washington and the ports of entry. Such reorganization will permit a more efficient alignment of the resources available in order to better meet the increasing demand for services.

Technical assistance in the MTN Customs Valuation Code.—In the Agreement on Customs Valuation concluded in the Tokyo Round of Multilateral Trade Negotiations (MTN) in the spring of 1979 and approved by the Congress in the Trade Agreements Act of 1979, the major developed nations indicated that they would provide limited amounts of technical assistance to the Customs Services of the developing nations, so that new Customs Valuation Agreement reforms could be widely accepted and adopted. In view of our leadership in drafting the new Agreement and in light of the commercial importance to the United States of ensuring the proper interpretation of the Agreement, the Committee urges that Customs find some small resources for participating in technical assistance efforts.

OFFICE OF THE U.S. TRADE REPRESENTATIVE

Authorization of appropriations

Section 141(f) of the Trade Act of 1974 authorized appropriations to the Office of the Special Representative for Trade Negotiations of such funds as necessary to carry out its functions during each of the five fiscal years 1976–1980, that is, for the duration of the MTN.

Section 3 of H.R. 6094 amends section 141(f) to provide a 1-year authorization of appropriations of $10,100,000 for the Office of the U.S. Trade Representative, as renamed under Reorganization Plan No. 3 of Executive branch international trade functions. Of this amount, a maximum of $65,000 may be used for entertainment and representation expenses. The bill also provides a permanent authorization of appropriations for each fiscal year beginning in fiscal year 1983 for salary increases provided under the Federal Pay Comparability Act of 1970.

The $10.1 million authorized for fiscal year 1983, the amount requested by the USTR, represents an increase of only $0.1 million above the amount authorized for fiscal year 1982 in H.R. 2540 as passed by the House. The $10.1 million authorization is $1.1 million above the

funding level appropriated for fiscal year 1982. This increase from current funding levels is attributable primarily to salary increases, salaries for additional staff on a reimbursable detail basis, and increases in administrative support services. If uncontrollable costs are excluded, the net request is about 6 percent above current appropriations.

The number of permanent positions for the Office would not change from the 113 positions currently available, including 5 permanent positions for the agency's office in Geneva, Switzerland. That office was established to carry out the responsibilities of the USTR under the Reorganization Plan, including U.S. representation to the General Agreement on Trade (GATT).

The USTR requested continuation of a 5-year authorization as provided during the MTN. However, the Committee believes that a yearly review, as in the case of annual authorizations for the ITC and Customs Service, is warranted given the central role of the USTR in the Reorganization Plan and the need to maintain close Congressional oversight of trade policy development and implementation in the post-MTN period.

Administrative authorities

Section 3 of H.R. 6094 adds provisions to existing functions and powers of the USTR Office under section 141 of the Trade Act of 1974, which were requested by USTR with the clearance of the Office of Management and Budget. These provisions restore standard administrative authorities to that Office, which most agencies have but the USTR lost when its travel and representation budget with the Department of State was merged into a single USTR budget for fiscal year 1981 as a consequence of the Reorganization Plan. These provisions amend subsections (c) and (d) of section 141 to authorize the U.S. Trade Representative:

1. To delegate any of his functions, powers, and duties to other officers and employees of the Office as he may designate. The USTR may also authorize successive redelegations as he deems appropriate.

2. To pay for expenses approved by him for official travel without regard to the Federal Travel Regulations or to the provisions of subchapter I, chapter 57, title 5, United States Code, relating to rates of per diem allowances in lieu of substantive expenses. The purpose of this provision is to allow the U.S. Trade Representative or other officers in the agency, subject to his approval, to obtain accommodations at rates in excess of the per diem allowances under certain circumstances. The Trade Representative frequently needs to meet with others while traveling and a suite provides meeting space separate from living quarters, which is not always available otherwise.

3. To accept, hold, administer, and utilize gifts, devices, and bequests of real and personal property for facilitating work of the Office. The purpose of this provision is to enable the Office to accept gifts such as libraries of books or papers on trade willed to it by former employees or to accept reimbursement for travel or meal expenses. Acceptance of gifts from foreign governments is limited by other legislation.

4. To acquire, by purchase or exchange, not more than two passenger vehicles for use abroad at a maximum cost of $9,500 each.

The purpose of this provision is to allow the agency to acquire automobiles for the official use of its staff located in the Geneva office. Currently, that office is borrowing automobiles from the U.S. Mission in Geneva, but this is not possible over an extended period. Leasing arrangements are a more costly substitute.

In addition, existing authority under section 141(d) for the USTR to promulgate rules and regulations necessary to carry out his "functions" is amended to also include rules and regulations necessary to carry out his "powers and duties". The purpose of this amendment is simply to clarify that this authority extends to the entire scope of the USTR's responsibilities, not merely to a more narrow range of functions. The amendment in no way grants or implies any new or additional regulatory or rulemaking powers.

Finally, section 3 makes technical changes throughout section 141 to reflect name changes from "Special Representative for Trade Negotiations" to "United States Trade Representative" in conformity with the Reorganization Plan, and deletes certain obsolete provisions.

Vote of Committee in Reporting the Bill

In compliance with claim 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the bill. H.R. 6094 was by voice vote ordered favorably reported by the Committee with two amendments.

Oversight Findings

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee makes the following findings:

The Committee, based on the oversight activities of the Subcommittee on Trade, has concluded that changes, other than those included in the legislation, in the organization of the ITC, Customs Service, and USTR are not necessary at this time.

In regard to clause (l)(3)(D) of rule XI of the Rules of the House of Represenatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

Budget Authority and Cost Estimates, Including Estimates of of Congressional Budget Office

In compliance with clause 7(a) of rule XIII and with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 6094 would provide new budgetary authority for the International Trade Commission in the amount of $19,737,000, for the Customs Service in the amount of $568,801,000 and for the U.S. Trade Representative in the amount of $10,100,000 for fiscal year 1983. The Committee states that there are no tax expenditures or new budget authority providing financial assistance to State and local governments in the bill.

In compliance with clause 7(a) of rule XIII and with clauses 2(l)(3)(B) and (C) of rule XI of the Rules of the House of Representatives, the Committee provides below information furnished by the Congressional Budget Office on H.R. 6094 and required to be included herein.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 29, 1982.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6094, a bill to authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1983 and for other purposes.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM,
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

APRIL 29, 1982.

1. Bill number: H.R. 6094.

2. Bill title: A bill to authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1983 and for other purposes.

3. Bill status: As ordered reported by the House Committee on Ways and Means, April 28, 1982.

4. Bill purpose: This bill authorizes for fiscal year 1983 the appropriation of $19.7 million for the necessary expenses of the International Trade Commission (ITC), $568.8 million for the salaries and expenses of the U.S. Customs Service, and $10.1 million for the Office of the United States Trade Representative (OUSTR). In addition, the bill authorizes for the Customs Service and OUSTR the additional sums necessary to reflect the pay rate change for fiscal year 1983.

The bill also amends the functions and powers of the OUSTR and grants the ITC Chairman certain powers with respect to the acceptance of gifts for facilitating the work of the Commission. In addition, of the amount authorized for the Customs Service, the bill includes $31.5 million for the enforcement of alcohol and tobacco revenue laws transferred from the Bureau of Alcohol, Tobacco, and firearms.

Relative to the levels appropriated for fiscal year 1982, the authorization levels contained in the bill represent an 8.4 percent increase for the ITC, an 8.8 percent increase for the Customs Service (exclusive of the alcohol and tobacco revenue enforcement function transfer), and a 12.2 percent increase for the OUSTR.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1983	1984	1985	1986	1987
Estimated authorization level:					
ITC (Function 150)	19.7				
Customs Service (Function 750)	568.8				
OUSTR (Function 800)	10.1				
Pay Supplemental (Function 920)	28.4				
Total	627.0				
Estimated outlays:					
ITC (Function 150)	18.2	1.5			
Customs Service (Function 750)	515.3	53.1	0.3	0.1	
OUSTR (Function 800)	9.3	.8			
Pay Supplemental (Function 920)	27.3	1.1			
Total	570.1	56.5	.3	.1	

6. Basis of estimate: CBO assumes that the bill will be enacted and the full amount authorized will be appropriated for fiscal year 1983. The estimate for pay comparability for the Customs Service and OUSTR is based on CBO's current policy projection of an average 6.7 percent increase for the applicable salaries assumed in the authorization level. The estimated level of outlays is based on historical spending patterns.

Section 1(b) permits the Chairman of the International Trade Commission to accept and use gifts and bequests for the purpose of aiding the work of the Commission. Should the Commission receive gifts and bequests, this language would provide permanent, indefinite authority to use those resources. The net budget impact over time should be insignificant.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Steve Martin.

10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

INFLATIONARY IMPACT

With respect to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 6094 as amended would not have an inflationary impact on prices and costs in the operation of the general economy.

Additional Views

During its consideration of Customs Service authorization, the Committee agreed to remove the "cap" on the amount of overtime that can be paid an individual employee. We disagree with this decision and believe the cap is necessary to ensure effective management of overtime expenses and to control abuses that have plagued the agency in the past.

This Committee has had an ongoing concern about the extraordinary amount of overtime being earned by Customs inspectors. Prior to the imposition of the cap, it was not uncommon for inspectors to earn more than $40,000 above their base pay in overtime. Abuses in the scheduling of overtime and complaints from inspectors themselves about excessive requirements for after hours work added to our concern.

Since the cap has been in place, Customs has given careful attention to better management of overtime assignments and has eliminated most excesses. However, even under the existing cap, an employe can earn $20,000 in overtime above their base salary which averages $22,000. In our view, continuation of the overtime cap is not unnecessarily burdensome and serves to ensure accountability and efficient management of overtime by the agency.

Continuation of the cap achieves several goals. First of all, it requires the agency to continually monitor overtime payments and to allocate personnel and other resources in the most efficient way. Also, it encourages Customs to set up concurrent work shifts that meet the numerous and varied demands for the agency's services without resorting to overtime. Finally, the cap ensures that overtime payments are evenly distributed among all those employees who must work overtime and keeps requests for overtime hours to more predictable and manageable levels.

It cannot be denied that administering the overtime cap carries some additional costs. However, these costs are more than offset by the savings in total overtime payments, which have slowed dramatically as the result of the cap. Of course, certain administrative costs necessary to monitor and control overtime will be incurred whether or not the cap is in place.

The Customs Service should continue its efforts to reduce overtime and to improve the management of services provided on an overtime basis. Such efforts include improved scheduling, the use of part-time employees, and eliminating abuses in the assignment and authorization of overtime. Having the cap in place ensures that Customs will maintain the priority on overtime management which it currently has.

The existing cap has been in place only three years. We think it has proved effective and should be continued. When H.R. 6094 comes to the floor an amendment will be offered to reimpose the cap on individual overtime payments at $25,000, a slightly higher level than now exists. We hope our colleagues will join in support of this amendment.

Ed Jenkins.
Bill Frenzel.
Don Pease.
W. Henson Moore.
Barber B. Conable, Jr.

ADDITIONAL VIEWS OF BILL FRENZEL

I oppose the $568,801,000 authorization of appropriation for the U.S. Customs Service that was approved by the Committee. This figure is morethan $38 million higher than that recommended by the President in the fiscal year 1983 Budget.

The budget process this year is likely to result in some funding cuts for almost every agency. These cuts are difficult, but necessary if we are to achieve our goal of bringing spending in line with revenues. It is my belief that greater efficiencies can be achieved by the Customs Service, and that the proposed cuts can be absorbed by that agency without adversely affecting the important and very necessary services provided to the public, such as import processing and drug interdiction.

An example of an area where greater efficiencies can be achieved is passenger clearance. Any person who has waited at an airport while every single passenger was checked, sometimes more than once, will recognize the need for a more efficient and selective system of processing passengers. Studies have shown that a more selective system would not significantly reduce the number of violations discovered by inspectors. Another area for savings is Customs overtime which has been discussed in separate views. Finally, a reduction in the number of regional offices would alleviate administrative duplication, focus resources at ports of entry and thereby reduce overall costs.

In my view, the $530,524,000 recommended by the Administration is a tight but adequate figure. It includes $18 million for annual pay increases and, although it would require a cutback in the number of inspectors, this lower authorization will not diminish the provision of services of an efficiently and effiectively managed Customs Service.

BILL FRENZEL.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of the rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TARIFF ACT OF 1930

* * * * * * *

TITLE III—SPECIAL PROVISIONS

* * * * * * *

Part II—United States Tariff Commission

SEC. 330. ORGANIZATION OF THE COMMISSION.

"(a) * * *

* * * * * * *

"(e) AUTHORIZATION OF APPROPRIATIONS.—(1) For the fiscal year beginning October 1, 1976, and each fiscal year thereafter, there are authorized to be appropriated to the Commission only such sums as may hereafter be provided by law.

[(2) There are authorized to be appropriated to the Commission for necessary expenses for fiscal year 1979 an amount not to exceed $12,963,000.]

(2) There are authorized to be appropriated to the Commission for necessary expenses for fiscal year 1983 not to exceed $19,737,000. No part of any sum that is appropriated under the authority of this paragraph may be used by the Commission for the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.

* * * * * * *

SEC. 331. GENERAL POWERS.

(a) ADMINISTRATION.—

[(1) Except as provided in paragraph (2), the chairman of the Commission shall—

[(A) appoint and fix the compensation of such employees of the Commission as he deems necessary (other than the personal staff of each commissioner), including the secretary,

[(B) procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and

[(C) exercise and be responsible for all other administrative functions of the Commission.

[Any decision by the chairman under this paragraph shall be subject to disapproval by a majority vote of all the commissioners in office.]

(a)(1)(A) Except as provided in paragraph (2), the chairman of the Commission shall—

(i) appoint and fix the compensation of such employees of the Commission as he deems necessary (other than the personal staff of each commissioner), including the secretary,

(ii) procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, and

(iii) exercise and be responsible for all other administrative functions of the Commission.

(B) The chairman of the Commission may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Commission.

(C) Any decision by the chairman under subparagraph (A) or (B) shall be subject to disapproval by a majority vote of all the commissioners in office.

* * * * * * *

SECTION 301 OF THE CUSTOMS PROCEDURAL REFORM AND SIMPLIFICATION ACT OF 1978

SEC. 301. (*a*) For the fiscal year beginning October 1, 1979, and each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for the United States Customs Service only such sums as may hereafter be authorized by law.

(*b*) *There are authorized to be appropriated to the Department of the Treasury not to exceed $568,801,000 for the salaries and expenses of the United States Customs Service for fiscal year 1983, of which not to exceed $31,464,000 is for salary and expenses for the enforcement of the alcohol and tobacco revenue laws.*

(*c*) *No part of any sum that is appropriated under the authority of subsection (b) may be used to implement any procedure relating to the time of collection of estimated duties that shortens the maximum 10-day deferment procedure in effect on January 1, 1981.*

(*d*) *For the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for salaries of the United States Customs Service such additional sums as may be provided by law to reflect pay rate changes made in accordance with the Federal Pay Comparability Act of 1970.*

TRADE ACT OF 1974

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* * * * * * *

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Sec. 141. Office of the [Special Representative for Trade Negotiations] *United States Trade Representative.*

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TITLE I—NEGOTIATING AND OTHER AUTHORITY

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CHAPTER 4—OFFICE OF THE [SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS] *United States Trade Representative*

SEC. 141. OFFICE OF THE [SPECIAL REPRESENTATAIVE FOR TRADE NEGOTIATIONS] *United States Trade Representative.*

(a) There is established within the Executive Office of the President the Office of the [Special Representative for Trade Negotiations] *United States Trade Representative* (hereinafter in this section referred to as the "Office").

(b) (1) The Office shall be headed by the [Special Representative for Trade Negotiations] *United States Trade Representative* who shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of the [Special Representative for Trade Negotiations] *United States Trade Representative* submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Finance. The [Special Representative for Trade Negotiations] *United States Trade Representative* shall hold office at the pleasure of the President, shall be entitled to receive the same allowances as a chief of mission, and shall have the rank of Ambassador Extraordinary and Plenipotentiary.

(2) There shall be in the Office two [Deputy Special Representatives for Trade Negotiations] *Deputy United States Trade Representatives* who shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of a [Deputy Special Representative] *Deputy United States Trade Representative* submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Finance. Each [Deputy Special Representative for Trade Negotiations] *Deputy United States Trade Representative* shall hold office at the pleasure of the President and shall have the rank of Ambassador.

[(3)(A) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

["(13) Special Representative for Trade Negotiations."

[(B) Section 5314 of such title is amended by adding at the end thereof the following new paragraph:

["(60 Deputy Special Representatives for Trade Negotiations (2)."]

(c)(1) The [Special Representative for Trade Negotiations] *United States Trade Representative* shall—

(A) be the chief representative of the United States for each trade negotiation under this title or section 301;

(B) report directly to the President and the Congress, and be responsible to the President and the Congress for the administration of trade agreements programs under this Act, the Trade Expansion Act of 1962, and section 350 of the Tariff Act of 1930;

(C) advise the President and Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;

(D) be responsible for making reports to Congress with respect to the matter set forth in subparagraphs (A) and (B));

(E) be chairman of the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962; and

(F) be responsible for such other functions as the President may direct.

(2) The United States Trade Representative may—

(A) delegate any of his functions, power, and duties to such officers and employees of the Office as he may designate; and

(B) authorize such successive redelegations of such functions, powers, and duties to such officers and employees of the Office as he may deem appropriate.

[(2)] *(3)* Each [Deputy Special Representative for Trade Negotiations] *Deputy United States Trade Representative* shall have as his principal function the conduct of trade negotiations under this Act and shall have such other functions as the [Special Representative for Trade Negotiations] *United States Trade Representative* may direct.

(d) The [Special Representative for Trade Negotiations] *United States Trade Representative* may, for the purpose of carrying out his functions under this section—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary and prescribe their authority and duties;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS–18 as provided in section 5332 of title 5, United States Code, and while such experts and consultants are so serving away from their homes or regular place of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(3) promulgate such rules and regulations as may be necessary to carry out the functions, *powers and duties* vested in him;

(4) utilize, with their consent, the services, personnel, and facilities of other Federal agencies;

(5) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the [Special Representative for Trade Negotiations] *United States Trade Representative* may deem appropriate, with any agency or instrumentality of the United States, or with any public or private person, firm, association, corporation, or institution;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)); [and]

(7) adopt an official seal, which shall be judicially noticed[.]*;*

(8) pay for expenses approved by him for official travel without regard to the Federal Travel Regulations or to the provisions of subchapter I of chapter 57 of title 5, United States Code (relating to rates of per diem allowances in lieu of subsistence expenses);

(9) accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Office; and

(10) acquire, by purchase or exchange, not more than two passenger motor vehicles for use abroad, except that no vehicle may be acquired at a cost exceeding $9,500.

(e) The [Special Representative for Trade Negotiations] *United States Trade Representative* shall, to the extent he deems it necessary for the proper administration and execution of the trade agreements programs of the United States, draw upon the resources of, and consult with, Federal agencies in connection with the performance of his functions.

[(f) There are authorized to be appropriated to the Office of Special Representative for Trade Negotiations such amounts as may be necessary for the purpose of carrying out its functions for fiscal year 1976 and each fiscal year thereafter any part of which is within the 5-year period beginning on the date of the enactment of this Act.]

(f)(1) There are authorized to be appropriated to the Office for the purpose of carrying out its functions $10,100,000 for fiscal year 1983; of which not to exceed $65,000 may be used for entertainment and representation expenses.

(2) For the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, there are authorized to be appropriated to the Office for the salaries of its officers and employees such additional sums as may be provided by law to reflect pay rate changes made in accordance with the Federal Pay Comparability Act of 1970.

[(g)(1) The Office of Special Representative for Trade Negotiations established under Executive Order No. 11075 of January 15, 1963, as amended, is abolished.

[(2) The assets, liabilities, contracts, property, and records and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, or available to such Office are transferred to the Office of Special Representative for Trade Negotiations established under subsection (a) of this section.

[(h)(1) Any individual who holds the position of Special Representative for Trade Negotiations or a position as Deputy Special Representative for Trade Negotiations on the day before the date of enactment of this Act and who has been appointed by and with the advice and consent of the Senate may continue to hold such position without regard to the first sentence of paragraph (1) of subsection (b), or the first sentence of paragraph (2) of subsection (b), as the case may be.

[(2) All personnel who on the day before the date of the enactment of this Act are employed by the Office of the Special Representative For Trade Negotiations established by Executive Order No. 11075 of January 15, 1963, as amended, as hereby transferred to the Office.]

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TITLE 5, UNITED STATES CODE

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

* * * * * * *

§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted:

Secretary of State.
Secretary of the Treasury.
Secretary of Defense.
Attorney General.
Secretary of the Interior.
Secretary of Agriculture.
Secretary of Commerce.
Secretary of Labor.
Secretary of Health and Human Services.
Secretary of Housing and Urban Development.
Secretary of Transportation.
[Special Representative for Trade Negotiations.] *United States Trade Representative.*
Secretary of Energy.
Secretary of Education.

* * * * * * *

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * * * *

Chairman, Commodity Futures Trading Commission.
[Deputy Special Representatives for Trade Negotiations (2).] *Deputy United States Trade Representative (2).*
Chairman, United States Trade Commission.

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